IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLAGTE JURISDICTION

**WRIT PETITION NO. 1773 OF 2006.**

The president Shree Sant
Dnyaneshwar Vidya Prasarak
Mandal ..Petitioner.
V/s
Smt. Surekha Bhausaheb Patil
And others .. Respondents.

Mr. P.N. Joshi for the petitioner
Mr. Anil Kumar Patil for respondent No.1.

**CORAM : DR. D.Y. CHANDRACHUD, J.**

**DATE : 30TH JUNE, 2006.**

p.c.

. The 1st respondent was appointed on probation in a clear and permanent vacancy as an Assistant Teacher on 15th June, 1999. The services of the 1st respondent were terminated on 18th March, 2002, after she had completed the probationary period and attained the status of a permanent employee in view of the deeming provisions of Section 5(3) of the Maharashtra Employees of Private Schools (Condition of service ) Regulation Act, 1977. The services of the 1st respondent were terminated on the ground that the Education Officer had declined to grant approval on 17th September, 2001,

Therefore, it is evident that the communication of the Education Officer was after completion of the probationary period. That apart, there is no valid reason or basis for the refusal. Reliance is placed on a GR dated 17th January, 2001 under which for teaching the Vth to VIIth Standards, 75% posts should be filled in by appointing SSC, D.Ed candidates while for the remaining 25% posts trained graduates should be appointed. The 1st respondent is a trained graduate teacher. The 1st respondent belongs to the OBC category and even assuming that there was a backlog, the appointment of the the 1st respondent was in compliance with the provisions of Section 9(7) of M.E.P.S. Rules 1981. It appears that after the appointment of the 1st respondent, Respondent Nos. 5 to 7 came to appointed from the open category for whom approval has also been granted by the Education Officer. The Management did not produce before the School Tribunal the proposal to the Education Officer in spite of a direction. The termination of the 1st respondent was unlawful. In fact, after the order of School Tribunal which was passed on 21st September, 2005, the 1st respondent has been reinstated to her original post of Assistant Teacher.In that view of the matter the petition does not

call for any interference under Article 227 of the Constitution.

2. The Management shall approach the Education Officer for grant of approval within a period of two weeks from today in respect of respondent No.1. The Education Officer shall pass necessary orders in compliance within a period of 4 weeks from the receipt of the application.

. The petition is dismissed.

**( DR. D.Y. CHANDRACHUD, J.)**